

JAP:MKM

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

M 11-1212

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UNITED STATES OF AMERICA

- against -

FERNANDO ESPINAL,
also known as
"Jorge Diaz-Ramos" and
"Silvio Espinal Hernandez,"

Defendant.

COMPLAINT AND AFFIDAVIT
IN SUPPORT OF ARREST
WARRANT

(T. 8, U.S.C., §§ 1326(a)
and 1326(b)(2))

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EASTERN DISTRICT OF NEW YORK, SS:

MATTHEW LEW, being duly sworn, deposes and states that he is a Deportation Officer with United States Immigration and Customs Enforcement ("ICE"), duly appointed according to law and acting as such.

On or about November 15, 2011, within the Eastern District of New York and elsewhere, the defendant FERNANDO ESPINAL, also known as "Jorge Diaz-Ramos" and "Silvio Espinal Hernandez," being an alien who had previously been arrested and convicted of an aggravated felony, and was thereafter excluded and removed from the United States, and who had not made a re-application for admission to the United States to which the Secretary of the Department of Homeland Security, successor to

the Attorney General of the United States, had expressly consented, was found in the United States.

(Title 8, United States Code, Section 1326(b)(2)).

The source of your deponent's information and the grounds for his belief are as follows:^{1/}

1. I am a Deportation Officer with ICE and have been involved in the investigation of numerous cases involving the illegal re-entry of aliens. I am familiar with the facts and circumstances set forth below from my participation in the investigation; my review of the investigative file, including the defendant's criminal history record; and from reports of other law enforcement officers involved in the investigation.

2. On or about November 15, 2011, the defendant FERNANDO ESPINAL, also known as "Jorge Diaz-Ramos" and "Silvio Espinal Hernandez," was arrested in Queens, New York, by the New York Police Department and charged with criminal possession of a controlled substance in the fifth degree intent to sell, in violation of Section 220.06(1) of the New York State Penal Law. The defendant used the name "Jorge Diaz-Ramos" in connection with this arrest.

^{1/} Because the purpose of this Complaint is to set forth only those facts necessary to establish probable cause to arrest, I have not described all of the relevant facts and circumstances of which I am aware.

3. Federal law enforcement received information from the New York Police Department regarding the defendant's arrest. ICE officials ran a criminal history report and found that the defendant, a citizen of the Dominican Republic, had been previously removed from the United States on or about June 18, 2008. The defendant used the name "Silvio Espinal Hernandez" in connection with this removal.

4. ICE officials also determined that on or about January 20, 2000, the defendant had been convicted in the Southern District of New York of conspiracy to distribute and possession with intent to distribute cocaine base, in violation of Section 846 of Title 21 of the United States Code, an aggravated felony offense. The defendant used the name "Fernando Espinal" in connection with this conviction.

5. The fingerprints taken in connection with the defendant's arrest underlying his January 20, 2000 conviction; the fingerprints taken in connection with the defendant's June 18, 2008 removal; and the fingerprints taken in connection with the defendant's November 15, 2011 arrest, were compared by a trained analyst and it was determined that all three sets of fingerprints were made by the same individual.

6. A search of United States Citizenship and Immigration Services records has revealed that there exists no request by the defendant for permission from either the United


States Attorney General or the Secretary of the Department of Homeland Security to re-enter the United States after removal.

WHEREFORE, your deponent respectfully requests that an arrest warrant be issued for the defendant FERNANDO ESPINAL, also known as "Jorge Diaz-Ramos" and "Silvio Espinal Hernandez," so that he may be dealt with according to law.



MATTHEW LEW
Deportation Officer
U.S. Immigration and Customs
Enforcement

Sworn to before me this
8th day of December, 2011



HONORABLE ROBERT M. LEVY
UNITED STATES MAGISTRATE JUDGE
EASTERN DISTRICT OF NEW YORK